

ORDINANCE COMMITTEE

A G E N D A

TOWN OF CHINCOTEAGUE

January 14, 2010 - 5:00 P.M. – Council Chambers - Town Hall

CALL TO ORDER

ROLL CALL

OPEN FORUM / PUBLIC PARTICIPATION

AGENDA ADOPTION:

1. Possible Change in the Ordinance, Chapter 22, Environment, Article III, Nuisances, Division 1. Generally, Sec. 22-62 Certain nuisances enumerated and Sec. 22-64 Penalty.
2. Committee Member Comments

ADJOURN:

Chapter 22

ENVIRONMENT*

ARTICLE III. NUISANCES*

DIVISION 1. GENERALLY

Sec. 22-61. Prohibited generally.

It shall be unlawful for any person to cause, harbor, commit or maintain or to suffer to be caused, harbored, committed or maintained any nuisance as defined by the statutes or common law of this state or as defined by this Code or other town ordinance at any place within the town.

(Code 1977, § 12-1)

Sec. 22-62. Certain nuisances enumerated.

- (2) All buildings, bridges, **streets or roadways**, or other structures of whatever character ~~kept owned~~ or maintained, or which are permitted by any person owning or **person** having control thereof to be kept **and** ~~or~~ maintained, in a condition unsafe, dangerous, unhealthy, injurious or annoying to the **occupants or users thereof, or the general** public.

***Cross reference**—Nuisance declared on Johnson grass, § 66-52.

State law reference—Abatement or removal of nuisances, Code of Virginia, §§ 15.2-900, 15.2-1115.

- (3) All trees and other appendages of or to realty kept or maintained or which are permitted by any person owning or having control thereof to be kept or maintained in a condition unsafe, dangerous, unhealthy, injurious or disturbing to the public.
- (4) All ponds or pools of stagnant water and all foul or dirty water or liquid when discharged through any drain, pipe or spout or thrown into or upon any street, public place or lot to the injury or disturbance of the public.
- (5) All obstructions caused or permitted on any street or sidewalk to the danger or disturbance of the public and all stones, rubbish, dirt, filth, slops, vegetable matter or other article thrown or placed by any person on or in any street, sidewalk or other public place which in any way may cause any injury or disturbance to the public.
- (6) All sidewalks, gutters or curbstones permitted to remain in an unsafe condition or out of repair.
- (7) All stables, kennels, cattle yards, sheep or cow pens or yards or structures for poultry or other animals permitted by the owner thereof or the person responsible therefor to be a harboring or breeding place for rodents or which accumulate animal wastes or which are otherwise to be in

such a condition as to become offensive, disturbing or injurious to the public or to persons in the neighborhood thereof.

- (8) All houses or buildings used for special storage of powder, dynamite or other explosive substances, except those maintained pursuant to a permit issued by competent authority.
- (9) All septic tanks, privies, cesspools and privy vaults of a type prohibited by state law or by rules and regulations promulgated by authority of state law or which are maintained in any manner contrary to state law or rules and regulations promulgated by authority of state law or which otherwise constitute a menace to the health of or are offensive to persons in the neighborhood thereof.
- (10) a. The filling or placing, or permitting the filling or placing, or allowing to remain and/or the maintaining of, any material or substance, whether manmade or natural, in any creek, basin, canal, ditch, or any other drainage way, whether on public property or private property, which in any way impedes, obstructs, blocks, adversely alters, or otherwise detrimentally affects the volume or flow of water through such creek, basin, canal, ditch, or other drainage way.

As to any such creek, basin, canal, ditch, or other drainage way on private property, this provision shall only apply to those creeks, basins, canals, ditches, or other drainage ways which, when connected to other such creeks, basins, canals, ditches or other drainage ways constitute the system, or a part thereof, that drains public lands or improvements within the town, or otherwise assists in the removal of stagnant water from such private property whereon such creek, basin, canal, ditch, or other drainage way is situated. Prior to performing any work, such private owner shall seek a determination by the director of public works as to whether such creek, basin, canal, ditch, or other drainage way is subject to or exempt from this provision.

(Ord. of 5-6-2002)

- b. Notwithstanding the provisions hereinabove any private land owner, if otherwise in compliance with all other provisions of law, may place piping and suitable fill in any such canal, ditch, or other drainage way situated on such owner's private property, expressly provided such is installed in accordance with a plan approved by the town director of public works, which plan shall specify such pipe size and type, the fill material, and all other specifics required by the director of public works to ensure that the existing volume or flow of water is not adversely affected, or adversely affects the drainage of any adjacent properties. The director of public works shall issue a permit for the work and such work shall be completed in strict accordance therewith. Such work shall be inspected by the director of public works upon its completion. The fee for any such permit shall be as specified by the town council from time to time.

(Ord. of 5-6-2002)

- c. Whenever any such material or substances is caused to be deposited into any such creek, basin, canal, ditch, or other drainage way on private property by Acts of God, or other natural causes, such material or substance may be removed by the town at no cost to the landowner.

(Ord. of 5-6-2002)

- (b) **The provision of Section 15.2-900 of the Code of Virginia of 1950, as amended, including the definition of the term "nuisance" and the remedies provided therein are hereby adopted mutatis mutandis.**

- (c) The nuisances described in this section shall not be construed as exclusive, and any act of commission or omission and any condition which constitutes a nuisance by statute or common law of the state, when committed, omitted or existing within the town limits, is declared to constitute a nuisance.

(Code 1977, § 12-2)

Sec. 22-63. Responsibility of property owners, occupants and others.

Each owner, lessee, tenant, occupant or other person in charge of any real property within the town and each agent or representative of any such person is charged with responsibility for the maintenance and use of such real property in such manner that no use of or activity or condition upon or within such real property shall constitute a nuisance, and all such persons shall comply with all of the sections of this article, but such responsibility shall not be construed to permit any other person not charged with such responsibility to commit or maintain any nuisance upon or within any real property in the town.

(Code 1977, § 12-3)

Sec. 22-64. Penalty.

The failure of the person or entity to abate any such nuisance in accordance with section 22 – 94 shall constitute a violation and ~~Any violation of this article shall~~ be punishable by a fine of not to exceed Five Hundred Dollars (\$500.00) or twelve (12) months in jail, either or both ~~less than \$25.00 or more than \$250.00~~. Each day in violation shall constitute a separate offense.

(Code 1977, § 12-2; Ord. of 10-19-2000)

Secs. 22-65—22-90. Reserved.